

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: THURSDAY, APRIL 8, 2004
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Tim Johns
Mr. Ted Yamamura

Ms. Lynn McCrory
Ms. Kathryn Inouye
Mr. Gerald DeMello

STAFF

Ms. Dede Mamiya, Land
Mr. Bill Stanley, DOFAW
Mr. Dan Quinn, State Parks

Mr. Mike Buck, DOFAW
Ms. Vickie Caraway, DOFAW
Mr. John Dooling, DOT

OTHER

Mr. Vince Kanemoto, Deputy Attorney General
Mr. Walter Dudley, D-14
Ms. Lauren Uyetake, C-1
Mr. Beau Bassett, C-1
Mr. Don Clegg, D-8
Mr. Gene Napio, E-1
Ms. Beth Hendricks, E-1
Ms. Carol McLean, E-1

Senator Willie Espero, C-1
Ms. Smita Khatri, C-1
Ms. Junedale Hashimoto, D-13
Ms. Joan Malama, E-1
Mr. Andy Briton, E-1
Mr. Bud Henry, E-1
Mr. Chuck Streek, D-4

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of March 25, 2004

Member Johns recused himself.

The Board amended the “Others” section of Page 1 to add:

**“Ms. Pam Matsukawa, Deputy Attorney General
Ms. Yvonne Izu, Deputy Attorney General”**

Unanimously approved as submitted (McCrory/Inouye) by the remaining members.

Item D-14: Rescind Prior Board Action; Issuance of Direct Lease to the University of Hawaii for Marine Research and Educational Purposes, Lalamilo, South Kohala, Hawaii TMK: (3) 6-9-01: por. 01.

Member DeMello recused himself.

Dede Mamiya Administrator of the Land Division reminded the Board the 5 acres of land was leased to the University of Hawaii for the establishment of the Kalakaua Marine Education Center. These five acres of land are adjacent to the Puako Boat Ramp. In 1990 this item was approved by the Board but due the amount of time that has lapsed and failure of the University to find the funding, complete the lease and develop the property, staff is asking that the prior approval be rescinded and a new approval be granted for the proposed lease. Currently, the University has indicated they have renewed interest and possible private funding for the facility. Staff is requesting a number of benchmarks for the lease to insure that should the University fail to obtain private or public funding commitments for the project the lease may be terminated by the Board. Ms. Mamiya made it known the Division of Boating and Ocean Recreation has not been able to complete the documentation for the Governor’s Executive Order due to the lack of subdivision and maps. Therefore she is recommending that the University be required to also subdivide the DOBOR boat ramp parcel when they subdivide their parcel. Staff also asking that the University be required to preserve public access to the shoreline areas and to work with Na Ala Hele on the establishment and maintenance of the Ala Kahakai trail alignment that traverses the area of the parcel. In closing Ms. Mamiya recommended the Board Rescind its action of the September 14, 1990 meeting under agenda item F-5 and authorize the issuance of a direct lease to the University of Hawaii covering the subject area.

Walter Dudley Director of the Kalakaua Marine Education Center appeared before the Board. Mr. Dudley informed the Board there is a both a priority and necessity for a research station at Puako. When approval was received in 1990 funds were made available for planning by the legislature but these funds were never released.

The Board amended:

- 1) The Applicant Requirements Section by amending paragraph 1) to read as follows:**

- “1) Process and obtain subdivision approval with the County of Hawaii Planning Department, at Applicant’s own cost, including subdividing DOBOR’s Puako Boat Ramp:”**
- 2) The Recommendation Section by amending subparagraph 2.B. to read as follows:**
- “2.B. The University of Hawaii shall be required to cooperate with the Na Ala Hele Program with our Division of Forestry and Wildlife on the establishment, operation and maintenance of the proposed Ala Kahakai Trail that traverses the area of the proposed lease and shall preserve public access to the shoreline;”**

Unanimously approved by the remaining Board members (Johns/Yamamura).

Item C-1: Request for Approval of the Habitat Conservation Plan for Abutilon Menziesii at Kapolei and Accompanying Incidental Take License and Certificate of Inclusion.

Michael Buck Administrator for the Division of Forestry and Wildlife communicated that in 1986 the Abutilon Menziesii plant was listed on the endangered species list. In 1986 there was only one individual plant known on Oahu in the Kapolei area. To the surprise of the botanical community a large population of ninety (90) individual plants were discovered in an abandoned cane field in 1996. While no one is sure of the origin of the current population it is probably the result of a remnant population surviving unnoticed in drainage ditches. The cessation of sugar production coupled with a large rainfall in 1996, provided an opportunity for the plant to reappear. The Habitat Conservation Plan proposed today would allow the Department of Transportation the ability to remove the plants within the highway corridor and establish three new locations in protected areas. The three locations are Koko Crater Botanical Garden, Kaena Point and Diamond Head State Park. Although the Department of Transportation is the sole applicant, the Habitat Conservation Plan mitigates for the impact of development actions that may be conducted by other agencies/organizations. A Certificate of Inclusion will be issued with the Plan. Mr. Buck indicated two changes were made to the plan 1)the State will maintain a conservation area of high Abutilon Menziesii concentration and 2) the Department of Transportation has provided a \$200,000 mitigation fund after the length of the permit. Mr. Buck recommended the Board approve the Habitat Conservation Plan for Abutilon Menziesii at Kapolei and accompanying Incidental Take License and Certificate of Inclusion.

Senator Willie Espero appeared before the Board and spoke in support of staff’s recommendation. Senator Espero spoke of the growing infrastructure in the Kapolei area and the need for new roads. He believes the approval of the Habitat Conservation Plan will assist in the building of new roads and in particular the North-South Road. Currently ground breaking for the North-South Road has been set for the end of this year contingent upon the approval of this Habitat Conservation Plan.

Beau Bassett came forward to support incorporating Abutilon Menziesii into the Kapolei area landscape. He feels development should not come at the expense of this plant.

Unanimously approved as submitted (Johns/Inouye).

Item D-13: Resubmittal: Dispute of Rent under Revocable Permit No. S-6040, John K. and Junedale U. Hashimoto, Permittees, Hanalei, Kauai, TMK: (4) 5-3-7:05.

Ms. Mamiya reminded the Board at its February 2002 Land Board meeting staff was asked to review the rents of certain permits, one being RP S-6040. At its annual renewal in 2002 the rent was not reviewed due to a lack in staff. Ms. Mamiya reported the in-house valuation recommended a new rent of \$3,556 per month (up from the \$500 per month). She went on to give a brief history of this lease. She made it known in 1911 the property was issued as a Homestead Lease. Later the lessee requested to buy the fee simply interest but defaulted on the payments and the property came back to the State. In August 1983 the Board issued a revocable permit for the subject parcel to John and Junedale Hashimoto. Ms. Mamiya also communicated in 1998 a permit-by-permit review was conducted by staff and a new rent of \$1,200 was recommended. The Board deferred decision on the matter to give the lessee time to develop a plan for how they proposed to deal with the rent increase. A plan was received from the lessee which asked to split Parcel 5 into two areas and lower the rent. This plan was rejected by staff. Staff notified the lessee of the new rent of \$3,556 and informed the Hashimoto's if they had any objections to the rent amount they would need to submit proper evidence to prove otherwise. No evidence was submitted but Ms. Hashimoto asked for a hearing before the Board, which is where we are today. Ms. Mamiya recommended the Board confirm staff's in-house valuation of \$3,556 per month for Revocable Permit No. S-6040 to be effective April 1, 2004.

Junedale Hashimoto came forward to testify against staff's recommendation and read from the letter she submitted. Ms. Hashimoto informed the Board she has been looking for evidence to support her claim of a smaller rent increase but to date she has found nothing. She asked the Board for time to work with staff in trying to obtain a smaller rent increase and agreed to an increase in rent to \$1,000 monthly beginning June 2004. Ms. Hashimoto noted she requested the parcel be split into 2 parcels so they could live on one parcel and farm the other parcel. But to her surprise staff at the land division told her the parcel was not zoned agriculture but zoned residential. The Board asked Ms. Hashimoto why she didn't work something out back when she had the opportunity. She only confirmed upon the death of her father, she did not contact staff. She asked the Board if they would entertain a motion to set the rent at the 1998 valuation to which the Board answered no.

Member McCrory asked staff if they could look at reducing the size of the parcel. It was made known that the location of the house is beachfront therefore the property in back has little value.

Unanimously approved as submitted (McCrory/Yamamura).

Item D-8: Grant of 55-year Term, Non-Exclusive Easement to Dennis and Lisa Tanaka for Seawall, Concrete Boat Ramp and CRM Wall Purposes, Kaneohe, Honolulu, Oahu, TMK: 4-4-18:84 seaward.

Ms. Mamiya conveyed the applicants previously came before the Board when it was made known there was an encroachment onto State lands. The applicant then applied for and was granted an after-the-fact Conservation District Use Permit in February 2004. Staff is not recommending imposing a fine due to the fact the area of encroachment was under 100 square feet. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-exclusive easement to the applicants.

Don Clegg of Analytical Planning Consultants informed the Board the area of encroachment is 72 square feet. He informed the Board the cost of the appraisal of this parcel is more than the value of the parcel.

The Board amended the Applicant Requirements Section by amending paragraph 1) to read as follows:

“1) Pay [~~for an appraisal to determine~~] a one-time payment as determined by staff and”

Unanimously approved as amended (Inouye/McCrory).

Item E-1: Request for Approval to Extend a Lease for Buildings at Heeia State Park, Oahu.

Dan Quinn Administrator for State Parks indicated at the August 23, 2002 meeting a request to grant the Friends of Heeia a 20-year lease came before the Board. At the meeting interest and concerns were expressed by several people and due to these concerns the Board deferred action on the item and instructed staff to work directly with the groups expressing their interest and concerns for the area and get back to the Board with recommendations. Subsequently, the department has decided to look at the area in a regional context and develop a plan which considers all the surrounding lands. State Parks supports the activities the Friends of Heeia have done and therefore Mr. Quinn recommended the Board approve a one-year extension of the lease with the Friends of Heeia for the two buildings that they are now leasing subject to the terms and conditions of the original lease.

The Board asked Mr. Quinn if one-year was sufficient time to complete the planning process. Mr. Quinn noted one of their planning positions are on the chopping block at the legislature and this could hamper the completion of the planning process with in one-year.

Joan Malama chairman of the Board of Heeia State Park testified in support of staff's recommendation. Ms. Malama made it known they have meet with the other groups and have come to a solution with some of the groups. She went on to discuss the background of some of their board members and with the groups they work with. She noted her concern with the one-year term of the lease and the difficulty in obtaining grants for such a short

lease. She told the Board the length of the lease has a lot to do with acquiring grants and loans for the repair of the building.

Gene Naipo a member of the Heeia Board came forward to testify. He communicated six of the nine members of the Heeia Board are native Hawaiians. He feels by taking part in the activities put on by the Friends of Heeia it gives him the opportunity to work with and teach the children. He went on to inform the Board that all activities that take place at the park have been approved by the Heeia Board. Mr. Naipo asked the Board to approve the submittal before them today.

Andy Britton Dean of Natural Science at Hawaii Pacific University came forward to show his support for the Friends of Heeia. He spoke of the tremendous opportunity for college students to do environmental monitoring at the park. He indicated the funding received by the Friends of Heeia allows for training of the students at Hawaii Pacific University.

Beth Hendricks Education Coordinator at Heeia State Park spoke of how she became involved with the Friends of Heeia. Ms. Hendricks spoke of an excursion in which she served as a chaperon at the park and the positive experience from this excursion made her seek out the Friends of Heeia when it was time for her to do her internship. Upon completion of the intern program, Ms. Hendricks was offered a job at the park.

Bud Henry an original member of the Board came forward to voice his support. He pointed out to an article he wrote in the April 2004 issue of The Friends of Heeia which looked at the "Big Picture Concept" for Heeia State Park and asked the Board to read that article as it pertains to the development of the area in a regional context.

Member Inouye asked Mr. Quinn what were the concerns expressed by the individuals attending the August 23, 2002 Board meeting.

Mr. Quinn pointed out there were other groups who wanted to be considered for management of the area but none of the groups were 501 C(3) non-profit organizations. Mr. Quinn noted none of the groups had a history with the State nor does he know of any management activities done by those organizations. Mr. Quinn made it known at the completion of the planning process, State Parks anticipates to make recommendations regarding the long term tenure at Heeia State Park.

Member Inouye questioned Mr. Quinn on how long he anticipates the planning process to take. Mr. Quinn felt a year would be really fast. Chairperson Young noted the Department is looking to the Office of Planning for some assistance. He indicated the overall plan will look at the park, the boat harbor, mauka lands and the neighboring lands (Board of Water Supply, Department of Hawaiian Homes and Kamehameha Schools). Member Inouye asked staff to consider a longer extension, maybe two or three years.

Carol Mclean Executive Director for the Friends of Heeia indicated there are three reasons why they are requesting an extended lease: 1) to procure more long term grants; 2) to obtain loans to repair the building; and 3) to attract quality people and staff to the park.

The Board amended the Recommendation Section as follows:

“That the Board approve a [~~one-year~~] three-year extension of the lease with the Friends of Heeia for the two buildings that they are now leasing subject to the terms and conditions of the original lease.”

Approved as amended (Inouye/Martyn).

Chairperson Young and Member McCrory voted No.

Item D-4: Issuance of Right-of-Entry to the United States Army Corps of Engineers for Phase III of its Defense Environmental Restoration Program of the Former Waikoloa Maneuver Area at Kawaihae 2nd – Lanikepu and Lalamilo, South Kohala, Hawaii, TMK: (3) 6-2-01:11, 15 & 65; 6-2-02: 1 & 8; 6-6-02:31, 32, 34, 35, 39, 40, 41, 42 & 43; 6-9-01: 2, 15, & 17.

Ms. Mamiya disclosed the United States Army Corps of Engineers are requesting a right-of-entry to conduct surveying and other work relating to the removal of unexploded ordnances. Previously two organized clearance efforts have taken place. The area in question was part of an artillery firing range where live ammunition and other explosives were employed. The subject areas are encumbered under several leases therefore permission would need to be obtained by all users of the subject land. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry permit to The United States of America, Department of the Army, Corps of Engineers.

Chuck Streek Project Manager came forward to voice his support of staff’s recommendation.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-11: Forfeiture of General Lease No. S-4908, Francis Daniel Beirne and Dannielle Ululani Van Hiram, Lessees, Maunalaha Homesites, Opu, Makiki, Oahu, TMK: 2-5-24:03.

Ms. Mamiya informed the Board the lessee has posted the required liability insurance and is current on rental payments.

Motion to Withdraw

Unanimously approved to Withdraw (Johns/Inouye).

Item D-10: Forfeiture of General Lease No. S-4890, Millicent Crawford, Lessee, Maunalaha Homesites, Lot 7, Opu, Makiki, Honolulu, Oahu, TMK: 2-5-24:07.

Ms. Mamiya informed the Board the lessee has failed to post the required liability insurance and recommended the Board authorize the cancellation of General Lease No. S-4890.

Millicent Crawford appeared before the Board and made it known that she has submitted a copy of the insurance policy to staff.

The Board deferred this item to later in the meeting in order for staff to check on the insurance policy.

Item D-12: Forfeiture of General Lease No. S-4913, Arnold P. Spencer and Corrine A. Versola-Spencer, Lessees, Maunalaha Homesites, Opu, Makiki, Oahu, TMK: 2-5-24:31.

It was made known the lessee has the required liability insurance but they failed to list the State of Hawaii as an additional insured.

Motion to Defer

Unanimously approved to Defer (Inouye/Johns).

The Board deferred this matter to give the tenant 30 days to complete the paperwork and provide adequate insurance.

Item D-2: Grant of Term, Non –Exclusive Easement to Lily Yee Wong Revocable Living Trust for Seawall Purposes; Kualoa, Koolaupoko, Oahu, TMK: (1) 4-9-009:019 seaward.

Motion to Defer

Unanimously approved to Defer (Inouye/Johns).

Item D-7: Consent to Assign General Lease No. S-5616, Elsie M. Nishi, Assignor, to Elsie M. Nishi, Assignee, Hanapepe, Waimea, Kauai, TMK: (4) 1-9-12:03.

Ms. Mamiya briefed the Board and recommended the Board consent to the assignment of General Lease No. S-5616.

The Board amended all references to the assignor throughout the board submittal from “Elsie M. Nishi” to “Elsie M. Nishi, as Personal Representative Under the Last Will and Testament of Tatsuo Nishi.”

Unanimously approved as amended (McCrory/Johns).

Item D-1: Amend Prior Board Action of May 9, 1997 (Agenda Item D-40), Relating to the Withdrawal of Land from Governor’s Executive Order No. 3450 and General Lease No. S-4435 and their Conveyance, Together with Unencumbered State Land Situate at Diamond Head Road and 18th

**Avenue, to the City and County of Honolulu, Kapahulu, Waikiki,
Honolulu, Oahu, TMK: 3-1-42: pors of 9 & 20.**

Item D-3: Approval of Lease of Private Property with Maui Varieties Investments, Inc., on Behalf of the Department of Human Services, for File Storage Purposes at Naalehu Town, Kawala, Kau, Hawaii, TMK: (3) 9-5-21:26.

Item D-5: Grant of Perpetual, Non-Exclusive Easement together with Immediate Right of Entry to Quintin Kiili for Access and Utility Purposes. Hoolawa, Makawao, Maui, TMK: (2) 2-9-002: por. 012.

Item D-6: Issuance of Revocable Permit to Jeffrey and Christine Patnoe, Ualapue, Molokai, TMK: (2) 5-6-001:026.

Item D-9: Grant of 55-year Term, Non-Exclusive Easement to Miles Nakama, for Seawall Concrete Steps and Boat Ramp Purposes, Mikiola, Kaneohe, Oahu, TMK: 4-4-18:74 seaward.

Unanimously approved as submitted (Johns/Martyn).

Item D-10: Forfeiture of General Lease No. S-4890, Millicent Crawford, Lessee, Maunalaha Homesites, Lot 7, Opu, Makiki, Honolulu, Oahu, TMK: 2-5-24:07

Motion to Defer

Unanimously approved to Defer (Inouye/Martyn).

The Board deferred this matter to give the tenant 30 days to complete the paperwork and provide adequate insurance.

Item M-1: Amendment to Land Board Action of 01-23-04, Item M-4 Taxi Management Concession Agreement Honolulu International Airport.

Item M-2: Direct Issuance of Two Leases of Easement, Together with Two Interim Revocable Permits to the Gas Company, LLC, at Hilo Harbor, Hawaii.

Item M-3: Issuance of a Revocable Permit to Jas. W. Glover, LTD., at Kawaihae Harbor, Kohala, Hawaii.

Item M-4: Consent to Sublease – Lease No. DOT-A-92-11 Bar-K, Inc. to Douglas D. Troxel dba Traxel Family Office, Sole Proprietorship.

Item M-5: Consent to Sublease – Lease No. DOT-A-92-11 Bar-K, Inc. to Matsushita Avionics Systems Corporation.

Item M-6: Issuance of Leases to Federal Aviation Administration (FAA), United States of America (USA) at Honolulu International Airport.

Unanimously approved as submitted (Johns/Martyn).

There being no further business, Chairperson Young adjourned the meeting at 10:39 a.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Terry Crowell

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources